



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

WAGGONER CARR
ATTORNEY GENERAL

July 18, 1963

Honorable D. C. Greer
State Highway Engineer
Texas Highway Department
Austin 14, Texas

Opinion No. C-109

Re: Appointment of official court reporter under the facts submitted.

Dear Mr. Greer:

Your request for an opinion reads as follows:

"During the course of highway rights of way acquisition it occasionally becomes necessary, where negotiations are unsuccessful, to exercise the right of eminent domain with some acquisitions attaining civil suit status. Often times, where testimony is to be taken, the service of an official court reporter is not available and arrangements are made for testimony to be taken by a stenographer or reporter specifically employed.

"Listed are five questions pertinent to the use of a stenographer or reporter where the service of an official court reporter is not available. It is requested that an opinion be rendered concerning the status of the stenographer or reporter so employed, and the payment of such services.

"1. In a civil suit where testimony is to be taken in the absence of an official court reporter, does the stenographer or reporter employed by either party become an official court reporter through appointment by the Judge?

"2. If the answer to No. 1 is in the affirmative, are the fees charged for the services so rendered governed by Articles 2324 and 2327?

"3. If the answer to No. 1 is in the negative, who sets the compensation?

"4. Could the State as a party to the suit request an official court reporter to take testimony under Article 2327, R.C.S. and set per diem rate and allow additional reimbursement for meals and travel?

"5. Is there any other provisions of the law whereby the State of Texas may do the same thing as related in question No. 4?"

Articles 2327 and 2327d, Vernon's Civil Statutes, provide:

Art. 2327:

"When either party to a civil case pending in the county court or county court at law applies therefor, the judge thereof shall appoint a competent stenographer, if one be present, to report the oral testimony given in such case. Such stenographer shall take the oath required of official court reporters, and shall receive not less than five dollars per day, to be taxed and collected as costs. In such cases the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court, shall apply to all statements of facts in civil cases tried in said courts, and all provisions of law governing statement of facts and bills of exception to be filed in district courts and the use of same on appeal, shall apply to civil cases tried in said courts."

Art. 2327d:

"For the purpose of preserving a record of all hearings had before the County Judge of the counties of Texas, for the information of the Court and parties that may be interested therein, the Judge of the County Courts of Texas may appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court, and shall hold office at the pleasure of the County Judge, and all provisions of the Civil Statutes

of the State of Texas relating to the appointment of stenographers for District Courts shall apply, in so far as applicable to the official shorthand reporter herein authorized to be appointed by the County Judge of the County Courts of Texas, and such shorthand reporter shall receive a salary not to exceed Twelve Hundred Dollars (\$1,200) annually to be paid in equal monthly installments out of the County Treasury of the various counties upon order of the Commissioners Court. Provided, that in counties having a population of not less than five hundred thousand (500,000) inhabitants, according to the last preceding Federal Census, or any future Federal Census, there may be paid to the official shorthand reporter for the County Court of such county a salary to be fixed by the County Judge and approved by the Commissioners Court not to exceed Five Thousand, Five Hundred Dollars (\$5,500) per annum, payable in equal monthly installments, in addition to compensation for transcript fees as provided by law, such salary to be paid out of the Officer's Salary Fund of such county."

The appointment of official court reporters is governed by the provisions of Articles 2327 and 2327d, Vernon's Civil Statutes. Otto v. Wren, 184 S.W. 350 (Tex.Civ.App. 1916); Rice v. Roberts, 177 S.W. 149 (Tex.Civ.App. 1915, error dism.); Wichita County v. Griffin, 284 S.W.2d 253 (Tex.Civ. App. 1955, error ref. n.r.e.); Wright v. Peurifoy, 260 S.W.2d 234 (Tex.Civ.App. 1953).

Whenever either party to a civil case pending in the County Court shall apply therefor the Judge of the Court shall appoint a competent stenographer to report the oral testimony given in such case. Article 2327, V.C.S ; Otto v. Wren, supra, and Rice v. Roberts, supra.

The Judge of the County Court is also authorized to appoint an official court reporter for such Court pursuant to the provisions of Article 2327d, V.C.S In our opinion, an official court reporter may be appointed pursuant to the provisions of either Article 2327 or 2327d.

The compensation (in addition to his salary or per diem) of such court reporter is governed by the provisions of Article 2324, V.C.S., which provides in part:

"When any party to any suit reported by any such reporter shall desire a transcript of the evidence in said suit, said party may apply for same and the reporter shall make up such transcript and shall receive as compensation therefor the sum of not more than thirty cents per one hundred words for the original thereof, and in addition such reporter may make a reasonable charge, subject to the approval of the trial court if objection shall be made thereto, for postage and/or express charges paid; photostating, blue-printing or other reproduction of exhibits; indexing; and preparation for filing and special binding of original exhibits. Provided further, that in case any such reporter shall charge more than the fees herein allowed, whether by accident or design, and shall refuse to make proper refund or correction of such charges, he shall be liable to the person paying the same a sum equal to four times the excess so paid."

In view of the foregoing, we answer your questions as follows:

- (1) The official court reporter of the County Court or County Court at Law may be appointed pursuant to the provisions of Article 2327d, or 2327, V.C.S. No other method for providing for official court reporters in such courts is prescribed by law.
- (2) and (3) The fees for the services rendered by the official court reporter are governed by the provisions of Article 2324, V.C.S.
- (4) The State cannot allow additional reimbursement for meals and travel to an official court reporter.
- (5) There are no other provisions whereby the State may provide for additional reimbursement for meals and travel.

SUMMARY

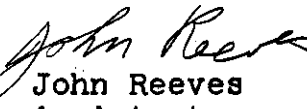
The appointment of official court reporters in County Courts and County Courts at Law is governed by the provisions of Articles 2327d and 2327,

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Vernon's Civil Statutes. The compensation of official court reporters is provided for by the provisions of Article 2324, Vernon's Civil Statutes. The State cannot allow additional reimbursement for meals and travel.

Yours very truly,

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Attorney General

By 
John Reeves
Assistant

JR:wb:ms

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